

## REMARKS

Claims remaining in the present patent application are Claims 1 – 24.

No new matter is added as a result of the amendments presented herein.

Applicants respectfully request reconsideration of the above captioned patent application in light of the following remarks.

### Response to Arguments

In the “Response to Arguments” section, the rejection argues, “Multer does not criticize, discredit, or discourage the application of its user information to be utilized for a device.” Applicants respectfully assert that non the less Multer further does not teach or suggest such application of user information to be utilized for a device. Thus, Multer in view of Hoguta fails to teach or suggest information organized on a “device” basis, as specifically claimed.

Moreover, the proposed modification of Multer such that Multer performs accounting on a device basis, as claimed, must fundamentally change the principle of operation of Multer, as the taught “users” are fundamentally different from the recited “devices.” Per *In re Ratti*, 270 F.2d 810, 123 USPQ 349 (CCPA 1959), “if the proposed modification or combination of the prior art would change the principle of operation of the prior art invention being

modified, then the teachings of the references are not sufficient to render the claims *prima facie* obvious.”

In addition, the “Response to Arguments” section fails to address Applicants’ argument that Multer in view of Hoguta fails to teach or suggest an “account... describing a complement of information.” Applicants do not understand Multer to teach accounts describing a complement of users, e.g., all users that do not use the system of Multer.

In the “Response to Arguments” section, the rejection argues, “[t]he accounting information maintained for the user can be application and application version information.” Applicants respectfully traverse. While the cited portion of Multer may discuss applications, Multer is silent as to the claimed limitation of “information is a version of an application program.” Multer further fails to disclose that an application program on multiple devices must be, or is somehow maintained as, identical.

In the “Response to Arguments” section, the rejection argues, “[i]f a single user for a single device, the accounting information for that one device is equivalent to Applicant’s invention.” Applicants strongly traverse, and point out that all claimed embodiments comprise at least two devices. Thus, the rejection’s argument about a single device is misplaced.

Moreover, the rejection's argument identifies a deficiency of Multer's user-based information in comparison with the presently claimed device-based information. Multer fails to teach management of multiple devices belonging to a single user, as information is maintained on a user basis. In contrast, as recited, embodiments in accordance with the present invention maintain information on a device basis. The distinction is important, as the distinction enables capabilities not found in Multer, e.g., management of multiple devices belonging to a single user.

In the "Response to Arguments" section, the rejection argues, "[i]t is not a requirement to disclose a token, when the prior art named entity, the datapack, performs an equivalent function." Applicants reiterate that the recited "token" and the taught "datapack" are not analogous, and do not perform the same functions. As recited by Claim 2, a token identifies specific information and "causes said account to be modified by said remote server." In contrast, Multer teaches, "[a] DataPack essentially contains a sequence of transactions describing changes to information." Thus, a token initiates, while a datapack records, after the fact. The two terms describe very different entities, and are not equivalent.

In the “Response to Arguments” section, the rejection argues, “[t]he Multer prior art discloses information that is new to handheld devices. Information is on remote server and not in handled device and can be downloaded at a later time period.” Applicants are confused by these statements, as they do not appear to support any subsequent argument.

However, Multer is silent as to the claim limitation of “describing information that is not stored in said second mobile computing device” as recited by Claim 1. Multer may very well have all the information contained within the portable device, e.g., the “old” information, and/or information that has not been modified, e.g., is to remain in the device. Thus, Multer contains all the information within the portable device, in contrast to the claimed limitation of information not contained in the mobile device.

Moreover, Multer does not determine what information is new to the device until synchronization. In direct contrast, Claim 1 recites an account, stored on a remote server, that knows what information is new to the device, and only stores such new information.

35 U.S.C. § 112

The rejection of July 17, 2007, does not set forth a rejection under 35 U.S.C. § 112. Applicants thank the Examiner for withdrawing the previous rejection under 35 U.S.C. § 112.

35 U.S.C. § 103

Claims 1-24 are rejected under 35 U.S.C. § 103(a) as allegedly being unpatentable over Multer et al. (US# 6,757,696 B2, "Multer") in view of Hoguta et al. (US 6,725,303, "Hoguta"). Applicants have carefully reviewed the cited references and respectfully assert that embodiments of the present invention as recited in Claims 1-24 are patentable over Multer in view of Hoguta.

Applicants respectfully assert that the rejection's citation of Hoguta is improper because the reference is nonanalogous art per *In re Clay*, 966 F.2d 656, 659, 23 USPQ2d 1058, 1060-61 (Fed. Cir. 1992). Applicants understand Hoguta to be directed to personalizing a network connection, classified in Class 710/106, "Electrical Computers and Digital Data Processing Systems: Input/Output - Using transmitter and receiver," whereas embodiments in accordance with the present claimed invention, as well as the primary reference Multer, are directed to synchronization of data sets.

Applicants respectfully assert that Hoguta would not commend itself to one of ordinary skill in the art in consideration of the problems solved by the claimed embodiments of the present invention, due to the myriad well known differences between data set synchronization and network access. Further, Applicants respectfully assert that Hoguta would not commend itself to one of ordinary skill in the art for combination with Multer, for a similar rationale.

For these reasons, Applicants respectfully assert that all rejections based upon a combination of Multer in view of Hoguta are overcome, and respectfully solicit allowance of Claims 1-24.

Further, the rejection proposes, as motivation for the proposed combination, to employ Hoguta “in order to enable uniform customization of services based on profile and preferences information.” Assuming, *arguendo*, that synchronization is fairly considered a service, the rejection fails to present any art to teach that synchronization, the subject of Multer, may benefit from “uniform customization.” Moreover, Hoguta teaches personalization of a connection, which is directly opposite to the proposed motivation of enabling uniformity. Applicants respectfully assert that Hoguta is completely silent as to synchronization.

Applicants respectfully assert that the rejection applies impermissible hindsight to fabricate a motivation for the proposed combination. Applicants respectfully assert that the proposed motivation for the cited combination is not found in the art of record.

For this further reason, Applicants respectfully assert that all rejections based upon a combination of Multer in view of Hoguta are overcome, and respectfully solicit allowance of Claims 1-24.

Such impermissible hindsight is further demonstrated in the rejection's summary of a claimed limitation found on page 5 of the rejection, "the capability to enable access to user profile by another user." Claim 1 does not recite the terms "user" or "profile." In fact, this and previous responses argue fundamental differences between the taught "user" and the recited "device." In formulating an argument based upon these terms, the rejection demonstrates use of impermissible hindsight in interpreting the recited Claims in the language of the cited art, rather than the language in which the Claims are recited.

For this further yet reason, Applicants respectfully assert that all rejections based upon a combination of Multer in view of Hoguta are overcome, and respectfully solicit allowance of Claims 1-24.

With respect to Claim 1, Applicants respectfully assert that Multer fails to teach or suggest the claim limitation of an “account stored on said remote server, said account reserved for a second mobile computing device” as recited by Claim 1.

As taught by Multer in column 17 lines 18-20, *inter alia*, an “information store is maintained on a user-by-user basis” (emphasis added). The rejection itself characterizes Multer as teaching “user accounting information for each user” (page 4 “regarding Claim 1,” emphasis added).

Applicants respectfully assert that one of ordinary skill in the art would understand that there is a fundamental difference between the taught user-centric information and the recited “account reserved for a... device.” For example, a user can have multiple devices capable of synchronization, e.g., mobile phone, MP3 player, personal digital assistant, etc. As taught by Multer, information is stored on a user basis. In contrast, the instant limitation recites an account on a device basis.

Consequently, the fundamental organization and principles of operation of Multer are quite different from embodiments of the present invention that



recite information storage and/or accounting on a device basis, as recited by Claim 1.

For this reason, Applicants respectfully assert that Claim 1 overcomes the rejection of record, and respectfully solicit allowance of this Claim.

Further with respect to Claim 1, Multer teaches, “the storage server will be checked to determine whether a new version of the data exists on the storage server (column 34, lines 24-26). In other words, Multer teaches determining the possible existence of new information as a part of the synchronization process.

In contrast, Claim 1 recites that such new information, “not stored in said second mobile computing device,” is stored on a server. By teaching determining the existence of new information is a part of the synchronization process, Multer teaches a totally different and differentiated method from the recited storage of information “not stored in said second mobile computing device” as recited by Claim 1.

For this further reason, Applicants respectfully assert that Claim 1 overcomes the rejection of record, and respectfully solicit allowance of this Claim.

In addition with respect to Claim 1, Applicants respectfully assert that Multer fails to teach or suggest the claim limitation of “describing information that is not stored in said second mobile computing device” as recited by Claim 1. As recited, embodiments of the present invention in accordance with Claim 1 describe information that is not stored in said second mobile computing device. In contrast, Multer teaches storage of “a user’s entire file system tree” (column 33, line 4, *inter alia*). By teaching storage of all of a user’s data, including data that may be stored on the remote device, Multer actually teaches in direct opposition to the recited limitation of storing a “information that is not stored in said second mobile computing device” as recited by Claim 1.

For this additional reason, Applicants respectfully assert that Claim 1 overcomes the rejection of record, and respectfully solicit allowance of this Claim.

Still further with respect to Claim 1, Applicants respectfully assert that Multer fails to teach or suggest the claim limitation of “modifying said account to identify an information that resides on said remote server but not on said second mobile computing device” as recited by Claim 1. For example, Multer teaches, “(after a device connects) the storage server will be checked to determine whether a new version of the data exists on the storage server” (column 34 lines 23-26, emphasis added). Thus, in contrast to the recited

limitation of Claim 1, the system of Multer does not know whether information resides on a device until the device connects to the server. Thus, Multer does not teach or suggest modifying an account to identify information “not stored in said second mobile computing device” as recited by Claim 1.

For this still further reason, Applicants respectfully assert that Claim 1 overcomes the rejection of record, and respectfully solicit allowance of this Claim.

Further still with respect to Claim 1, Applicants respectfully assert that Multer does not teach or suggest the claim limitation of “describing information that is not stored in said second mobile computing device” as recited by Claim 1. As described previously, and as recognized by the rejection, Multer operates on a user basis. Consequently, Multer fails to teach or suggest the recited device of the instant limitation.

Hoguta is not alleged to correct this deficiency of Multer, and Applicants respectfully further assert that Hoguta does not correct this deficiency of Multer. For this rationale, Applicants respectfully assert that Claim 1 overcomes the rejection of record, and respectfully solicit allowance of this Claim.

Still yet further with respect to Claim 1, Applicants respectfully assert that Multer in view of Hoguta does not teach or suggest the claim limitation of:

said remote server automatically determining from said account that said information is new to said second mobile computing device, and in response to said determining, automatically downloading said information to said second mobile computing device

as recited by Claim 1. In contrast, Multer teaches a conventional synchronization in which device data is compared to a user's complete data set to determine any new information. Consequently, Multer teaches determining that information is new based upon interaction with the (second) device, in contrast to the recited "determining from said account."

Hoguta is not alleged to correct this deficiency of Multer, and Applicants respectfully further assert that Hoguta does not correct this deficiency of Multer. For this still yet further reason, Applicants respectfully assert that Claim 1 overcomes the rejection of record, and respectfully solicit allowance of this Claim.

The rejection proposes that Multer in view of Hoguta would "enable access to profile information by a user of a network." While it may be possible to modify Multer in such a manner, Applicants respectfully assert that such

modification, *even if possible and proper*, fails to teach or suggest the instant limitation.

Hoguta teaches profile information includes:

subscriber preferences and service entitlements related to long distance, local or wireless phone calling plans (e.g., rates and peak/off-peak hours, calling circles), communication link attributes (e.g., speed, guaranteed information rate), television programming (e.g., premium encrypted or basic unencrypted programs, programming genres, program time-shifting), information resources, the type of network the user wishes to use, communication protocols corresponding to particular networks, multimedia content access (e.g., Internet or intranet site access, software downloads) and any rights to copy such content (column 2 lines 32-44)

Neither the above-cited portion of Hoguta, nor Hoguta in its entirety, teach or suggest that “profile” information may comprise the recited information that resides on said remote sever but not on said second mobile computing device.

While Hoguta may teach that a profile comprises some manner of “information,” Hoguta fails to teach the claimed information as recited by Claim 1.

Claims 2-11 depend from Claim 1. Applicants respectfully assert that these Claims overcome the rejections of record as they depend from an allowable base claim, and respectfully solicit allowance of these Claims.

With respect to Claim 2, Applicants respectfully assert that Multer does not teach or suggest the claim limitation of “said remote server receiving a token identifying said information and said second mobile computing device, and wherein said token causes said account to be modified by said remote server” as recited by Claim 2. Applicants respectfully assert that Multer does not even utilize the word “token” or similar terms.

Moreover, Applicant respectfully asserts that the rejection improperly equates Multer’s “datapack” with the recited token. Multer teaches that a datapack is “a compacted and encrypted Change Log” (column 16 line 43). For example, a datapack records, or “logs” changes. Applicants respectfully assert that one of ordinary skill in the art would understand a fundamental difference between the recited “token” and the taught “change log.”

For this additional reason, Applicants respectfully assert that Claim 2 overcomes the rejection of record, and respectfully solicit allowance of this Claim.

Further with respect to Claim 2, the rejection asserts that Multer column 37, lines 62-65 teaches the recited “token.” Applicants respectfully traverse. The cited portion of Multer teaches, “[a] DataPack essentially contains a

sequence of transactions describing changes to information.” Applicants respectfully assert that this cited teaching as well as the whole of Multer fails to teach or suggest the recited token that identifies said second mobile computing and causes said account to be modified. Multer is completely silent as to these recited attributes of a token.

For this further reason, Applicants respectfully assert that Claim 2 overcomes the rejection of record, and respectfully solicit allowance of this Claim.

With respect to Claim 4, Applicants respectfully assert that Multer does not teach or suggest the claim limitation of “wherein said information is a version of an application program” as recited by Claim 4. Applicants respectfully assert that Multer is silent as to synchronization of Application programs. Applicant respectfully asserts that the rejection improperly equates Multer’s “versioning module” with the recited “application program.” Multer teaches, “a versioning module... applies a version number per object in the data package” (column 12 lines 10-12). Applicants respectfully assert that the taught applying a version number fails to teach or suggest the recited “application program” to one of ordinary skill in the art.

For this additional reason, Applicants respectfully assert that Claim 4 overcomes the rejection of record, and respectfully solicit allowance of this Claim.

With respect to Claim 12, Applicants respectfully assert that Claim 12 overcomes the rejections of record for at least the rationale presented previously with respect to Claim 1. For these reasons, Applicants respectfully solicit allowance of this Claim.

Claims 13-20 depend from Claim 12. Applicants respectfully assert that these Claims overcome the rejections of record as they depend from an allowable base claim, and respectfully solicit allowance of these Claims.

With respect to Claim 13, Applicants respectfully assert that Claim 13 overcomes the rejections of record for at least the rationale presented previously with respect to Claim 2. For this additional reason, Applicants respectfully solicit allowance of this Claim.

With respect to Claim 15, Applicants respectfully assert that Claim 15 overcomes the rejections of record for at least the rationale presented previously with respect to Claim 4. For this additional reason, Applicants respectfully solicit allowance of this Claim.



With respect to Claim 21, Applicants respectfully assert that Claim 21 overcomes the rejections of record for at least the rationale presented previously with respect to Claim 1. For these reasons, Applicants respectfully solicit allowance of this Claim.

Claims 22-24 depend from Claim 21. Applicants respectfully assert that these Claims overcome the rejections of record as they depend from an allowable base claim, and respectfully solicit allowance of these Claims.



## CONCLUSION

Claims remaining in the present patent application are Claims 1 – 24.

Applicants respectfully request reconsideration of the above captioned patent application in light of the remarks presented herein.


The Examiner is invited to contact Applicants' undersigned representative if the Examiner believes such action would expedite resolution of the present Application.

Please charge any additional fees or apply any credits to our PTO deposit account number: 504160.

Respectfully submitted,

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